

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 18921 of 2007(C)

AGAINST THE ORDER IN EP 21 2006 IN
DLSA.411/2004 of MUNSIF COURT, KALPETTA
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PETITIONER:

SANKARAN NAIR,
TELECOM STAFF QUARTERS, PINANGODE,
KALPETTA, WAYANADU.

BY ADV. SRIJESWIN P.VARGHESE

RESPONDENTS:

STATE BANK OF TRAVANCORE,
KALPETTA BRANCH, REPRESENTED BY ITS MANAGER.

BY SC SHRI. R.S.KALKURA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.N. KRISHNAN, J.

WP(C).No. 18921 OF 2007 C

Dated this the 20th June, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order in E.P.21/06 in DLSA 411/04. The decree holder viz., State Bank of Travancore has filed the application for realisation of the decree debt by arrest and detention of the writ petitioner in civil prison. Admittedly, the writ petitioner is an employee of the BSNL. He has also filed a counter that he is not having sufficient means to pay the decree debt. He has also produced copies of the pay slips. It is seen that his gross salary is about Rs.11802/- deduction is also very substantial and the carry home salary is within a range of Rs.635/- to Rs.900/- per month. The learned Munsiff held that salary certificate is produced and it will show that the judgment debtor has the means to pay the decree debt. It is not correct on a prima facie perusal. But larger questions may arise that if it is in the form of a saving whether such deductions can be taken into consideration for claiming protection against arrest. But matter has not been considered in those angles at all and therefore the order passed by the learned Munsiff requires interference and it is set aside. The matter is remitted back to the learned Munsiff to consider

the matter afresh, after permitting the decree holder as well as the judgment debtor to let in evidence in support of their respective contentions. If additional evidence or document is necessary that also may be produced and the matter be disposed of within a period of two months from today. Till that date the order of arrest shall stand deferred. Writ petition is disposed of accordingly.

M. N. KRISHNAN
Judge

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